

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SCOTT AUERBACH,

Petitioner,

-against-

MARK AMIR,

Defendant.

ORDER

06 CV 4821 (RJD)

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DEARIE, Chief Judge.

On January 9, 2008, Magistrate Judge Pollak issued a Report and Recommendation (“Report”) in the above-referenced case. Plaintiff objected within ten days of the issuance of the Report, as calculated pursuant to Fed. R. Civ. P. 6(a). After careful consideration, and for the reasons stated below, the Court adopts Magistrate Judge Pollak’s Report and denies plaintiff’s motion to dismiss defendant’s First and Second Counterclaims.

Magistrate Judge Pollak produced a typically thorough and thoughtful review of the arguments presented by both parties, concluding ultimately that plaintiff had met the heightened pleading standard for fraud under Fed. R. Civ. P. 9(b), and that the counterclaims at issue alleged facts sufficiently collateral to the plaintiff’s breach of contract claim to withstand the motion to dismiss. Defendant submitted an objection stating that he “object[ed] to all aspects of the Report and Recommendation.” Defendant’s summary two page objection identified nine instances of allegedly reversible error committed by Magistrate Judge Pollak but failed to assert a single legal argument or citation in furtherance thereof.

“The district court judge . . . shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge’s disposition to which *specific written*

objection has been made . . .” Fed. R. Civ. P. 72(b) (emphasis added); see also 28 U.S.C. § 636(b)(1). Some of our sister courts have opted, in light of non-specific objections, to review magistrate judge reports “as a whole only for clear error.” Reynolds v. U.S.A., 2007 U.S. Dist. LEXIS 94961, at *7 (S.D.N.Y. Dec. 26, 2007) (citing Edwards v. Fischer, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006)); Vega v. Artuz, 2002 WL 31174466, at *1 (S.D.N.Y. Sept. 30, 2002) (“Objections of this sort are frivolous, general and conclusory and would reduce the magistrate’s work to something akin to a ‘meaningless dress rehearsal.’”) (citing Dennard v. Kelly, No. 90-CV-0203E, 1997 WL 9785, at *1 (W.D.N.Y. Jan. 2, 1997)). However, the Court need not address the sufficiency of plaintiff’s objection at this time, because the Magistrate Pollak’s Report withstands both clear error and de novo review.

Accordingly, the Court adopts Magistrate Judge Pollak’s Report in its entirety¹ and without reservations. Plaintiff’s motion to dismiss defendant’s First and Second Counterclaims is therefor denied.

SO ORDERED.

Dated: Brooklyn, New York
February 14, 2008

s/RJD

RAYMOND J. DEARIE
United States District Judge

¹ Including the Supplement to the Report and Recommendation issued on January 31, 2008.